## REMARKS

Applicants respectfully present Claims 1-24 for examination in the RCE filed herewith. Claims 1, 9 and 17 have been amended herein to more clearly define the scope of the presently claimed invention. No new claims have been submitted. Applicants respectfully submit that the claims and remarks presented herein overcome the Examiner's rejections in the Final Office Action dated November 3, 2005, in the parent application.

*35 U.S.C. §103*

Claims 1-24 stand rejected under 35 U.S.C. §103 as being unpatentable over the combination of Matsuda, U.S. Patent No. 6,346,956 ("Matsuda") in view of Cheng, U.S. Patent No. 56,396,509 ("Cheng"). Applicants respectfully traverse the Examiner's rejection.

First, Applicants reiterate Applicants' position that the references cannot be combined in the manner suggested by the Examiner. In response to Applicants' previously provided argument that it is improper to combine Matsuda with Cheng because there is no motivation to do so, the Examiner states that "Cheng provide a reason to combine his method of assigning priority with another virtual three-dimensional program, (column 3, lines 14-30) and that is to provide user with a system that supports intentional interaction and spontaneous interaction at the same time".

Applicants respectfully disagree that the above provides a motivation in the present case. Applicants again reiterate that the mere fact that if combined, *may* provide a benefit does not render the combination of the references obvious or proper. As set out in M.P.E.P. § 706.02(j), "(t)here must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." Applicants respectfully submit that barring hindsight and/or a mere statement of a desirable result, in the present case, there is no such motivation.

Applicants respectfully submit once again that that there is no teaching in either Matsuda or Cheng to actually suggest combining these references. There fact that both

references deal with "virtual" spaces is irrelevant. More relevant is the fact that there is no teaching in either reference to suggest that it would have been obvious to one of ordinary skill in the art to combine the references in the manner described by the Examiner. Applicants therefore respectfully reiterate that the combination of these references is improper and respectfully request the Examiner to withdraw the 35 U.S.C. § 103 rejections to Claims 1-24.

Even assuming arguendo these references were properly combined, Applicants once again respectfully submit that the combination of Matsuda and Cheng does not render Claims 1-24 unpatentable. As previously stated, the Examiner concedes that Matsuda does not teach the method of determining distances between the objects and a point in virtual three-dimensional space or the prioritization of the objects based on distances and identities of the objects and then selecting the target object from among the objects based on priority. In other words, Matsuda simply teaches the general concept of "identifying objects, including the target object, in the virtual three-dimensional space". Applicants respectfully submit that this is irrelevant because Applicants are not attempting to claim the general concept of identifying objects in a virtual three-dimensional space. Instead, Applicants invention lies in the combination of all the claimed elements. The Examiner essentially relies on Cheng to provide the "missing" elements in Cheng. Specifically, the Examiner submits that Cheng teaches "the method of determining distances between the objects and a point in the three-dimensional space or the prioritizing of objects based on distances and identities of the objects and then selecting the target object from among the objects based on priority (calculating distance between avatars) (col. 7, lines 63-Col. 8 lines 14, column 26, lines 34-40). The Examiner relies on these alleged teachings in Cheng and submits that it would have been obvious to combine these elements with the teachings in Matsuda.

Before addressing the substantive rejection, Applicants respectfully submit that this rejection is facially deficient because the Examiner has not established a *prima facie* case of anticipation. As is well-established, in order to establish a prima facie case of unpatentability under 35 U.S.C. § 103, prior art cited must disclose every limitation of the claims being rejected. Therefore, if even one claim element or limitation is not taught or

suggested by the reference(s), a *prima facie* case is not established. Additionally, as the Federal Circuit has noted,

"As adapted to ex parte procedure, Graham [v. John Deere Co.] is interpreted as continuing to place the burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103."

*In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The Examiner thus has the burden of producing a factual basis for his rejection and for establishing unpatentability by identifying how each recited claim element is allegedly disclosed by the cited reference(s). Applicants respectfully submit that the Examiner has failed to do so. For example, with respect to Claim 1, although the Examiner points to a section of Matsuda to show the first element of the claim, the Examiner makes no such showing with the remaining elements and Cheng. Instead, the Examiner simply points to a large section of Cheng ((col. 7, lines 63-Col. 8 lines 14, column 26, lines 34-40) and makes the leap that these sections teach the remaining three elements of Claim 1 not taught by Matsuda. The rejections of the remaining independent claims suffer from a similar lack of support. Applicants therefore submit that the Examiner has failed to establish a *prima facie* case and has merely provided general bare allegations that the references render the claims unpatentable. Applicants therefore respectfully request the Examiner to provide more detailed information to allow Applicants to more completely respond to the Examiner's rejection. Barring that, Applicants respectfully submit that the Examiner has failed to meet the requisite burden of proof and as such, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 102 rejections to pending Claims 1-30.

In the interest of moving forward with the substantive examination of this application, however, Applicants hereby make an attempt to interpret the sections of Cheng highlighted by the Examiner. The Examiner submits that Cheng, Col. 7, line 63 – Col. 8, line 14 and Col. 26, lines 34-49 teach the missing elements not taught by Matsuda. Applicants respectfully disagree.

Cheng, Col. 7 line 63 – Col. 8, line 14 reads as follows:

> "The attention component 52 is associated with one or more senses. (Examples of typical senses include sight and hearing.) As to a particular sense, the attention component has an attention space. That space's sense space 56 preferably is used to control the objects that the participant/avatar is enabled to perceive (e.g., via rendering)

within the environment. In turn, that space's focus space 58 preferably is used to determine the prospective partners (e.g., avatars and/or other virtual objects) with which the participant's avatar is enabled to interact spontaneously (e.g., through focus). In that interaction, the prospective partners preferably are those avatars and other objects that are perceivable via the sense space 56 and resident in the focus space 58. In FIG. 1b, avatars 17a-c are all within the attention space 55 of avatar 18, but (i) only avatars 17a and 17b are in the attention sense space 56 of avatar 18 and (ii) only avatar 17a is also in the attention focus space 58 of avatar 18. (As described further hereinafter, the two spaces also preferably contribute to priority-based rendering of avatars and other virtual objects.)"

Cheng, Col. 26, lines 34-40 reads as follows:

"(a) one base parameter respects the relative distance between (i) the participant's avatar A and (ii) another object B resident in the attention space associated with avatar A and (b) another base parameter respects the angle between (i) the vector AB associated with the relative positions of objects A and B and (ii) an attention vector associated with A."

Applicants fail to see how these sections somehow teach or suggest the claimed element of "determining distances between the objects and a point in virtual three-dimensional space", as claimed. Additionally, as amended herein, Claims 1, 9 and 17 clarify that the point in the virtual three-dimensional space indicates a position of a virtual camera within the virtual three-dimensional space. Neither Matsuda nor Cheng teaches or suggests this feature. Applicants also fail to understand where in these sections there is any teaching or suggestion of prioritization based on distance and identities, or selecting target objects based on priority, primarily because these is no teaching or suggestion in these sections of determining distances in the manner claimed (i.e., the prioritization is based on the distance and identities and the selecting is based on the priority). Applicants respectfully submit that these sections of Cheng simply do not teach or suggest the claimed elements. Applicants therefore submit that the combination of Matsuda and Cheng does not teach of suggest at least these features of the independent claims. Similarly, for at least this reason, the references cannot render all claims dependant on these independent claims unpatentable. In addition, many of the dependant claims include the aspect of "link" and "non-link" objects, which are not taught by either Matsuda or Cheng, alone or in combination. Applicants therefore respectfully request the Examiner to withdraw the rejection to Claims 1-24 under 35 U.S.C. §103.

## CONCLUSION

Based on the foregoing, Applicants respectfully submit that the applicable objections and rejections have been overcome and that pending Claims 1-24 are in condition for allowance. Applicants therefore respectfully request an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (714) 669-1261.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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Sharmini N. Green
Senior Attorney
Intel Corporation
Registration No. 41,410
(714) 669-1261